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USDA FOR SECRETARY SCHAFFER  
DEPT OF LABOR FOR SECRETARY CHAO  
TREAS FOR DEPUTY SECRETARY KIMMITT  
HHS PASS FDA FOR ADMINISTRATOR VON ESCHENBACH  
SEC FOR COMMISSIONER ATKINS  
STATE FOR U/S JEFFREY, EB A/S SULLIVAN  
USMISSION GENEVA FOR AMB. ALLGEIER

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SUBJECT: YOUR PARTICIPATION IN THE MAY 13 TRANSATLANTIC  
ECONOMIC COUNCIL, FROM SPECIAL ENVOY GRAY

REF: A. A. 07 USEU BRUSSELS 3488 (EU TREATY CHANGES)

- [1](#)B. B. USEU BRUSSELS 303 (EU TREATY CHANGES)
- [1](#)C. C. USEU BRUSSELS 397 (EU TREATY CHANGES)
- [1](#)D. D. USEU BRUSSELS 464 (EU TREATY CHANGES)
- [1](#)E. E. 07 USEU BRUSSELS 2948 (ENERGY SECTOR  
LIBERALIZATION PROPOALS)
- [1](#)F. F. 07 USEU BRUSSELS (TELECOMS LIBERALIZATION  
PROPOSAL)
- [1](#)G. G. USEU BRUSSELS 0117 (CLIMATE CHANGE PACKAGE)

[1](#)1. The U.S. Mission to the European Union and I welcome you to Brussels for the May 13 meeting of the Transatlantic Economic Council. This meeting will help realize President Bush and Chancellor Merkel's aspiration for greater transatlantic economic integration, but much will depend on the approach we bring to the event and on the Europeans' ability to deliver.

[1](#)2. A few key points up front before turning to the political and institutional contexts in which your counterparts will be operating and the specifics of the meeting:

-- The EU sees transatlantic economic integration as a strategic need because they are deeply concerned about the "competitive threat" from China, India and other emerging economies;  
-- Your counterparts want this TEC meeting to be a success. They want to build momentum so the TEC process survives changes in political leadership during 2009 in both the EU and the U.S.  
-- That said, the EU sees its market as an instrument of "soft power,"

and uses its "tougher" regulation in consumer and environmental protection to create new global standards (sometimes consciously at our expense);  
-- For this reason, a key focus of the TEC for us is to help improve the way the EU regulates: minimizing unnecessary regulatory divergences between us depends on the EU using a transparent regulatory process, science-based risk assessments, cost-benefit analysis and thorough impact assessments;  
-- The EU sees the same security threat from Russia as we do, but geographic proximity and recent experiences make economic, energy and political concerns much more tangible here than in the U.S.

We will get the most mileage out of this meeting if the discussions, in plenary as well as lunch, are "informal" and direct. While this may expose more differences than a "diplomatic" exchange, doing so will also help bring us back to our strategic need to cooperate. I look forward to working with you on these issues when you are here.

Your Counterparts

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13. We understand that five Commissioners will participate in the TEC. In addition to the bios you have, I offer a few quick observations:

Guenther Verheugen (Germany) - Enterprise: As the EU's TEC co-chair, has real equities in having a successful event. Also heads the Commission's Competitiveness Council and is concerned the regulatory burden on businesses (especially as it affects key German industries, such as autos). That said, Verheugen shares responsibility for implementing REACH, one of the most egregious examples of over-regulation. Can tend toward reading lengthy remarks, but has indicated a desire for free-flowing discussion during the TEC. As second tour Commissioner from Socialist party, Verhuegen is unlikely to be re-appointed to Commission next year.

Peter Mandelson (UK) - Trade: Consummate political tactician, credited with engineering election of Tony Blair's "New labor" in 1997. Wants win for WTO negotiations; has advocated stiffer line on trade relations with China, more in line, with the U.S. approach. As UK's Minister for Trade and Industry in late 1990s, actively promoted U.S.-style entrepreneurship. With a history of contention with UK Prime Minister Brown, questionable whether he will be reappointed to Commission next year, but unwise to count him out. Generally more sympathetic to U.S. position on trade issues like poultry and biotech than his environment and health commissioner colleagues.

Charlie McCreevy (Ireland) - Internal Market: Responsible for removing barriers to flow of goods, services, capital and people within EU; as such, watches member state moves that could create barriers to investment internally - and externally. Accountant and former Finance Minister interested in integrating EU's financial markets. Intent on pushing roadmap for better EU access to U.S. insurance market.

Meglana Kuneva (Bulgaria) - Consumer Protection: Ms. Kuneva has used this small but mighty mini-Directorate since its inception in January 2007 to play an activist role in completion of the internal market, setting her sights on e-Commerce, collective redress, IPR, toy safety, focusing on consumers as the EU engine. She is a European liberal, a free marketer who led Bulgaria's accession negotiations as Bulgaria's Minister for European Affairs 2002-2006. As a post graduate at Georgetown 1995, 1999-2000, her first

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foreign trip as Commissioner was to the U.S., followed by China. She actively seeks intensive engagement with both CPSC and FTC to adopt their best practices to EU situations. Kuneva has invited the CPSC Chair to join her and her Chinese counterpart in Brussels for product safety discussions and she is sending senior staff to join the CPSC Chair's China trip in September.

Laszlo Kovacs (Hungary) - Customs and Taxation: Hungary's Foreign Minister 1994-98, 2002-2004; Deputy Foreign Minister 1986-89; became Commissioner 2004. Responsible for the implementation of the Modernized Community Customs Code; which includes security amendments such as advance cargo manifest requirements and Authorized Economic Operators (AEO); as well as IPR enforcement. Kovacs has been vocal in EU and US forums in support of mutual recognition of AEOs and strong opposition of the 9/11 Act requirement of 100% scanning of containerized cargo destined to the U.S.

Andrej Vizjak, Slovenia's Minister of Economic Affairs, will also attend to represent the EU Council, that is, the 27 EU member state.

Slovenia is the first of the ten "new" members (mostly central European) that joined the EU in 2004 to hold the Presidency; it will also host President Bush for the U.S.-EU Summit in Ljubljana on June 10. But while the Framework was the initiative of the member states - Chancellor Merkel, when Germany had the rotating Presidency the first half of 2007 - the Commission has largely taken over the effort and Vizjak, unless encouraged, may tend to be silent.

The EU Political Context: Uncertainty Remains

14. The 2005 French and Dutch rejection of a new EU

"Constitutional Treaty" sent the EU (in particular the Commission) into the doldrums. Russia's shut-off of natural gas to Ukraine in 2006 helped rebuild momentum for strengthening the EU by underlining the importance of "solidarity" and highlighting the need for new EU powers on energy security. This set the stage for the 2007 agreement on amendments to the Treaty (brokered largely by Merkel) that strengthen the EU role in foreign, law enforcement and energy policy (Refs A-D). If these amendments come into force early next year, 2009 will be a watershed for Europe. June brings elections for a new European Parliament; this will be followed by appointments of all existing and new leadership positions in the EU structure: the new position of President of the European Council, a new EU

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Commission President (quite likely Barroso again), a new team of Commissioners (appointed by the Commission President and confirmed by the Parliament), and a new "High Representative" for foreign and security policy, who will serve simultaneously in both the Council and the Commission. A stronger EU could look to the TEC as a way to channel engagement with the United States across a broad range of economic issues, but only if the TEC is a viable forum for transatlantic policy discussion and strategic thinking.

15. Despite these changes, Member States, represented in the EU Council, are and will remain decisive in EU decision making. Although strong Member State leaders often challenge the Commission, many in Brussels believe that new power configurations in key member states - Merkel, Sarkozy, Berlusconi, Tusk in Poland and even the "Euroskeptic" Brown in the UK- help buttress the EU's role in the world. The European Parliament will also be a much more forceful presence in the near future. The EP gains significant powers in the revised treaty, including the right to approve (but not amend) trade deals and power over law enforcement issues. It has just negotiated a deal with the Commission and Member States to expand its oversight of implementing regulations, including, for example, with respect to biotech approvals. (The EP will have the right to review proposed regulations and reject them if the proposals exceed the authority in the underlying legislation.)

16. The Barroso Commission, which ends next year, has shot its last major legislative bolts: proposals for fundamental reforms to the telecommunications and energy sectors (refs E and F), geared toward liberalizing industries still dominated by state-owned (or formerly state-owned) firms, and a climate change package revising the EU's emissions trading scheme and setting targets for renewable

use (ref  
G). Each is proving rough sledding for the Commission.  
Member  
States will reject the Commission's desire for a more  
effective  
EU-wide telecoms regulator who could enforce third party  
access.  
They are also fighting hard against the Commission proposal to  
"unbundle" electricity and gas generation and distribution.  
And the  
allocation of pain under the new emissions trading scheme -  
both to  
energy intensive industries and among Member States - is  
welcomed by  
none, despite the EU's sanctimonious approach to the climate  
change  
negotiations.

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¶7. In this milieu, you can expect your counterparts to lean  
toward  
a generally cautious approach to difficult issues - including  
some  
of those in the TEC agenda.

The Bilateral Relationship - Strong, but Differences Still  
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¶8. The mood in Brussels about the United States has changed  
dramatically over the last five years, when we were seen as  
trying  
to divide the Europeans and advocates for the EU as a  
"counterweight" to the United States abounded. European  
leaders  
saw the dangers in that divisiveness, however, and warmly  
welcomed  
President Bush's 2005 initiative to strengthen the  
transatlantic  
alliance. This much more constructive attitude still  
prevails, and  
has been heightened by the concern that the "West" is losing  
influence in a globalizing world with new emerging actors.

¶9. The EU wants to be seen as a major actor on the world  
stage. On  
critical foreign policy issues (Balkans, Middle East,  
Afghanistan,  
Iran, Iraq, Russia), EU officials still cooperate closely  
with their  
Washington counterparts, and official EU statements generally  
say  
the right things. This will surely be the message during the  
June  
10 U.S.-EU Summit in Slovenia, and during the President's trip  
through Europe after that. But follow-through remains an EU  
weakness and public support for U.S. friendly policies  
remains thin.

Fissures are appearing as we address details - including, for  
instance, about the U.S. participation in the EU's mission to  
Kosovo. And EU willingness to strengthen financial sanctions  
and  
implement U.N. Security Council resolutions against Iran is  
flagging  
except in a handful of Member States.

¶10. Climate change continues to divide us. After initial  
foot  
dragging, the Europeans now support the President's "Major  
Economies" process of trying to reach agreement among key  
players on  
a new greenhouse gas emissions pact to replace the Kyoto  
Protocol.  
They want an agreement by Copenhagen at the end of 2009 and  
acknowledge this cannot be done with over 100 countries in  
the room.

But they cannot resist grandstanding, even when they are unlikely to meet their Kyoto commitments, never mind their new pledges of 20 (or even 30) percent below 1990 levels by 2020. And they still refuse to work with us to convince China and India to accept some form of commitment, even though they should realize the Senate will not ratify anything that doesn't commit these countries, and Senate

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staff have advised them that failure to make progress with us this year will seriously jeopardize completion of any agreement by Copenhagen in 2009.

#### The Economic Context and the TEC Process

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¶11. An EU ambivalence to the United States is bound to come through during the TEC. The Europeans know at the strategic level that they need to work with us, and they strongly support the goal of the 2007 Framework for Advancing Transatlantic Economic Cooperation. But they still often see the EU in apposition to the United States, viewing their "stronger" consumer and environmental protection regulations as setting a "global" standard and as the core of EU "soft power." This combined with the Commission's increasing caution and an awareness that our Administration will soon change can make resolving problems difficult.

¶12. The May 13 Council, and particularly the principals-only lunch, is an opportunity to focus on key strategic priorities that we share and the need for concrete actions by the EU that can make a difference in transatlantic integration. USTR Schwab's discussions with Trade Commissioner Mandelson before the TEC can help set the stage for this. The Europeans, including Mandelson, need a successful conclusion to the Doha negotiations. They know the window is closing, and understand they have to work with rather than against us on this. The lunch theme of resisting protectionism also provides an opportunity to discuss seriously steps all participants can take to encourage momentum toward a deal in key third countries.

Similarly, positive steps we are taking individually and together to promote innovation, growth and competitiveness can and should come up in the protectionism discussion.

¶13. The lunch will also turn to the critical issue of our economic relations with Russia. In Europe, these two issues are intertwined: the concerns about the bear to the East are very real, especially in the eight new central European member states, including EU Council Presidency Slovenia. The Central Europeans acquire the vast majority of their energy from Russia; the 2006 cut-off of gas to

Ukraine spotlighted Russia's willingness to use energy as a political tool. Gazprom has blatantly tried to acquire strategic assets in these countries. Russia's interference with Estonia's and Lithuania's electricity and internet grids last year have fueled

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these fears, as have its interference with gas supplies in Ukraine. Deep fear of Russia drove the Commission's proposals last year to prohibit third country investors from controlling gas and electricity transmission networks.

¶14. Fears regarding expansive engagement by Russian state-owned companies in European markets also has a significant impact on the sovereign wealth fund (SWF) debate in the EU. We successfully engaged the EU this year to align their policy priorities with our regarding SWF. However, many senior European policymakers conflate SWF issues with broader concerns regarding state-owned enterprises such as Gazprom. We need to encourage the EU to draw sharp distinctions between these two types of foreign investors. We also need to continue encouraging them to limit investment reviews to situations that raise true national security concerns, as we do with CFIUS.

¶15. In discussing Russia, we should also continue to explore ways we can constructive engage Moscow to promote market liberalization there. We work together closely on Russia's WTO negotiations, and have collaborated well on joint IPR efforts; we need to broaden this. The EU has an extensive engagement effort with its neighbor to the East, and believes these activities will intensify with Medvedev. We should use the lunch to identify opportunities to, including through the Investment Dialogue, to deepen our engagement, as we have with China after the last TEC meeting. We need to find constructive points of leverage, such as convincing Moscow it cannot reverse the slide in oil and gas production without U.S. and EU help. (And we need to help the Commission overcome member state resistance to the development of a common and coherent internal and external energy policy.)

¶16. We also need to take a strategic view in assessing the Framework. Our bilateral economic issues with the EU stem largely from differing approaches to regulatory processes across sectors (e.g., food safety, chemicals, financial services, competition or security). Improving the way the EU regulates - the work that Susan Dudley (and John Graham before her) and OMB/OIRA staff are doing on horizontal regulatory cooperation - is probably the most important



TEC achievement to date, and still to come. In some ways, the motto

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for the United States of the TEC should be "no more REACHes."

In part because of our stepped up cooperation on regulatory approaches, the EU in 2006 established the Commission's Impact Assessment Board (IAB). The IAB was strengthened in February of this year so now EU Directorates cannot submit proposals to the Commission until IAB economists have approved the accompanying impact assessments. Further, at this TEC, OMB's Susan Dudley and the IAB Chair, Alexander Italianer, will discuss steps they've taken to ensure we both consider the external impacts of domestic regulations. We have also agreed to intensify discussions on conducting risk analyses, a critical underlying aspect of regulation (and where EU practices are often questionable). Having just met the head of the new EU Chemical Agency, I think our efforts over the years to improve the transparency of REACH are beginning to take root.

¶17. Improving the EU's approach to regulation is one of our top priorities and should be a constant theme in all TEC discussions across economic sectors: transparency, science-based risk analysis, thorough impact assessments, respect for a broad range of public comment, eliminating unnecessary regulatory burdens. You can speak with authority on these issues and I encourage you to do so. We cannot make this point too forcefully to the Commission. We both need smart regulation to improve our competitiveness and expand economic growth opportunities on both sides of the Atlantic. If we regulate efficiently, we can also minimize unnecessary regulatory divergences and regulatory burdens while promoting transatlantic economic integration

¶18. The EU has not done enough to resolve the sectoral regulatory problems that could dominate the TEC, in particular on poultry and the EU's chemical regulation, REACH. Failure to find a solution to the REACH cosmetics issue will adversely affect the import of two billion dollars of U.S. exports of personal care products to Europe. If we do not leave Tuesday with strong assurances that these problems will be resolved before the Summit, we should be prepared to go to the WTO. As with EU energy policy with Russia, the major stumbling block is the continuing ability of the stronger member states to interfere with common EU-wide policy for its integrated internal market.

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¶19. In contrast, where the EU has concerns with us - primarily suppliers' declarations of conformity for low-voltage electrical equipment, 100% scanning of containers and even our state-based insurance regulation - we are not breaking international trade rules. We should be direct in pointing this difference out to them.

¶20. TEC debates on these thorny issues should not obscure either the other achievements in transatlantic integration that have taken place since the signing of the Framework last year. These include: the horizontal regulatory issues mentioned above, the ability of our food and drug regulators to share confidential information, new agreements on cooperation on auto safety and internet problems, the joint investment policy statement the TEC will issue, joint action against IPR piracy, and a strong roadmap to improve supply chain security.

#### New Priorities - Climate Change

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¶21. The TEC is also meant to recommend to the Heads new priorities for the year ahead. We have much to do on the existing agenda, but we should press the EU to add cooperation in energy and climate change technologies to the TEC lighthouse projects. Much work is already underway in this area: DOE is re-invigorating its energy R&D cooperation with the EU and we are implementing strong action plans on biofuels and energy efficiency, and hope to have another in clean coal technology soon. Adding energy and climate technologies to the TEC agenda will ensure cabinet-level attention to these efforts, a critical part of our story to a (skeptical) European public that we are working together to address climate change. Biofuel standards could become a point of dispute as there are signs that the EU may be designing sustainability criteria to protect against biofuels imports, including even imports of ethanol from the United States.

¶22. Promoting growth and competitiveness through integration, working over the long haul to improve EU regulation, and cross-cutting policy level discussions that help us approach strategic economic policy issues are the real rationale for this Council meeting, and in that sense it is sure to be a success. But we also need serious movement on the most contentious issues - poultry and cosmetics. With your help in the TEC, I believe

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we can achieve even this.

I look forward to working with you on all these issues when

you're  
here.  
Murray  
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